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FACSIMILE TRANSMISSIONTO: UNITED STATES PATENT AND TRADEMARK OFFICEFACSIMILE #: (703) 746 ~~5479~~ 5485No. Pages (Including this page) 9 FAX Opr: SiritzkyIF YOU DO NOT RECEIVE CLEARLY ALL PAGES, PLEASE CONTACT US IMMEDIATELYBy Telephone AT: (703) 905 2185 (local)  
or (703) 905-2000(local)In re PATENT APPLICATION of  
Inventor(s) Farber et al  
Appln. No. 09/612,598Group Art Unit: 2152  
Examiner: Geckelseries code ↑ serial no. ↑  
Filed: July 7, 2000Atty. Dkt. PM 270531  
M#TITLE: Optimized Network Resource  
LocationDate: March 5, 2002Name or type of signed paper being transmitted:

MESSAGE: Attached is a copy of the jury verdict form (Verdict on Special Questions to the Jury) for the litigation regarding the '703 patent. The relevant sections are II, Questions 4 and 5 on pages 2 and 3 of the Verdict Form. Also a copy of the Court's docket sheet indicating entry of the verdict on 12/21. Please call me at (703) 905-2185 if you have any questions or if you need any further information.

Brian Siritzky

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Name Brian SiritzkySig. B SiritzkyDate 3-5-02018404/270531

C# / M#

**US District Court for the District of Massachusetts (Boston)  
1:00cv11851**

**Akamai Technologies, et al v. Digital Island, Inc**

This case was retrieved from the court on Friday, January 4, 2002

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Date Filed: 09/13/2000

Class Code: ADR

Assigned To: Judge RYA W Zobel  
Referred To:

Closed?: No

Nature of Suit: Patent (830)  
Cause: Patent Infringement

Statute: 35:145e

Lead Docket: None  
Other Docket: None

Jurisdiction: Federal Question

Demand Amt: \$0,000  
Jury Demand: Both

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12/21/01	232	Jury verdict on Special Questions (jdj) [Entry date 01/02/02] [1:00cv11851]
12/28/01	224	Transcript of proceedings for held on proceeding date: 12/21/01 before Judge: Zobel. Court Reporter: James McLaughlin (jdj) [1:00cv11851]
01/02/02	225	Transcript of proceedings for held on proceeding date: 12/18/02 before Judge: Zobel. Court Reporter: James McLaughlin (jdj) [1:00cv11851]
01/02/02	226	Transcript of proceedings for held on proceeding date: 12/19/02 before Judge: Zobel. Court Reporter: James McLaughlin (jdj) [1:00cv11851]
01/02/02	227	Transcript of proceedings for held on proceeding date: 12/20/02 before Judge: Zobel. Court Reporter: James McLaughlin (jdj) [1:00cv11851]

# 2

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AKAMAI TECHNOLOGIES, INC.,  
And  
MASSACHUSETTS INSTITUTE OF  
TECHNOLOGY,  
Plaintiffs,  
vs.  
DIGITAL ISLAND, INC.,  
and  
KINETECH, INC.,

No. 00-cv-11851-RWZ

Defendants.

DIGITAL ISLAND, INC.  
and  
KINETECH, INC.,

No. 01-cv-11007-RWZ

Plaintiffs,

vs.  
AKAMAI TECHNOLOGIES, INC.,

Defendant.

**Verdict on Special Questions to the Jury.**

**I. INFRINGEMENT**

**Burden of proof - Preponderance of the Evidence**

**Akamai and MIT's '703 Patent**

1. Does Digital Island's Footprint 2.0 system infringe the following claims of the '703 patent:

Claim 1:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Claim 3:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Claim 5:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Claim 9:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Claim 17:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Claim 18:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Claim 22:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

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Akamai's '030 Patent

2. Does Digital Island's Footprint 2.0 system infringe the following claims of the '030 patent:

Claim 49: Yes \_\_\_\_\_ No ✓Claim 61: Yes \_\_\_\_\_ No ✓Digital Island and Kinetech's '791 Patent

3. Does Akamai's FreeFlow system infringe the following claims of the '791 patent:

a. Claim 30: Yes \_\_\_\_\_ No ✓b. Claim 31: Yes \_\_\_\_\_ No ✓c. Claim 33: Yes \_\_\_\_\_ No ✓d. Claim 41: Yes \_\_\_\_\_ No ✓**II. VALIDITY****Burden of Proof - Clear and Convincing Evidence**Akamai and MIT's '703 PatentMay 19, 99  
Aug 22, 2000

Feb 10, 98

Feb 6, 01

4. Are the following claims of the '703 patent invalid as anticipated by Digital Island's '598

patent:

revisit

a. Claim 1: Yes \_\_\_\_\_ No ✓b. Claim 3: Yes \_\_\_\_\_ No ✓c. Claim 5: Yes \_\_\_\_\_ No ✓d. Claim 9: Yes \_\_\_\_\_ No ✓

6-2-02

e. Claim 17: Yes ✓ No \_\_\_\_\_f. Claim 18: Yes ✓ No \_\_\_\_\_g. Claim 22: Yes ✓ No \_\_\_\_\_

*m-99*  
*Dec 97*

5. Are the following claims of the '703 patent invalid as obvious in view of Digital Island's '598 patent and Cisco's Distributed Director and/or Cisco's '160 patent?

a.	Claim 1:	Yes _____	No <u>✓</u>
b.	Claim 3:	Yes _____	No <u>✓</u>
c.	Claim 5:	Yes _____	No <u>✓</u>
d.	Claim 9:	Yes _____	No <u>✓</u>
e.	Claim 17:	Yes <u>✓</u>	No <u>✓</u>
f.	Claim 18:	Yes <u>✓</u>	No _____
g.	Claim 22:	Yes <u>✓</u>	No _____

Akamai's '030 Patent

6. Are the following claims of the '030 patent invalid as being obvious in view of these listed references, individually or collectively?

- i) Caccavale patent (U.S. Patent No. 5,459,837);
- ii) article entitled "Dynamic Server Selection in the Internet" by Mark E. Crovella, et al.;
- iii) article entitled "Server-initiated Document Dissemination for the WWW" by Bestavros et al.;
- iv) article entitled "Hierarchical Internet Object Cache" by Chankhunthod et al.;
- v) article entitled "Locating Nearby Copies of Replicated Internet Servers" by Guyton et al.:

Claim 49:	Yes _____	No <u>✓</u>
Claim 61:	Yes _____	No <u>✓</u>

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Digital Island and Kinerech's '791 Patent

7. Are the following claims of the '791 patent invalid as anticipated by the disclosures in a publication entitled "The Design and Implementation of Tripwire: A File System Integrity Checker" by Gene Kim and Eugene Spafford.

Claim 30:	Yes _____	No <u>✓</u> _____
Claim 31:	Yes _____	No <u>✓</u> _____
Claim 33:	Yes _____	No <u>✓</u> _____
Claim 41:	Yes _____	No <u>✓</u> _____

8. Are the following claims of the '791 patent invalid as anticipated by the disclosures in a publication entitled Experiences with Tripwire: Using Integrity Checkers for Intrusion Detection" by Gene Kim and Eugene Spafford.

Claim 30:	Yes _____	No <u>✓</u> _____
Claim 31:	Yes _____	No <u>✓</u> _____
Claim 33:	Yes _____	No <u>✓</u> _____
Claim 41:	Yes _____	No <u>✓</u> _____

9. Are the following claims of the '791 patent invalid as anticipated by the publication entitled "Distributed Systems Concepts and Design" by Coulouris, Dollimore and Kindberg

Claim 30:	Yes _____	No <u>✓</u> _____
Claim 31:	Yes _____	No <u>✓</u> _____
Claim 33:	Yes _____	No <u>✓</u> _____
Claim 41:	Yes _____	No <u>✓</u> _____

10. Are the following claims of the '791 patent invalid as anticipated by the publication entitled "The Appollo Domain Distributed File System from "Distributed Operating Systems: Theory and Practice by Paker, Banatra and Bozyigit.

Claim 30:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 31:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 33:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 41:	Yes _____	No <input checked="" type="checkbox"/> _____

11. Are the following claims of the '791 patent invalid as anticipated by the Kilburg e-mails.

Claim 30:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 31:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 33:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 41:	Yes _____	No <input checked="" type="checkbox"/> _____

12. Are the following claims of the '791 patent invalid as anticipated by the publication entitled RFC 1321 - "The MD5 Message Digest Algorithm"

Claim 30:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 31:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 33:	Yes _____	No <input checked="" type="checkbox"/> _____
Claim 41:	Yes _____	No <input checked="" type="checkbox"/> _____

H/L

13. Are the following claims of the '791 patent invalid as obvious in view of these listed

references, individually or collectively:

- i) publication entitled "The Design and Implementation of Tripwire: a File System Integrity Checker," by Gene Kim and Eugene Spafford,
- ii) publication entitled "Experiences with Tripwire: Using Integrity Checkers for Intrusion Detection" by Gene Kim and Eugene Spafford;
- iii) publication entitled "Distributed Systems Concepts and Design" by Coulours, Dollimore and Kindberg;
- iv) publication entitled "The Appollo Domain Distributed File System from "Distributed Operating Systems: Theory and Practice by Paker, Banatra and Bozyigit;
- v) Kilburg e-mails;
- vi) publication entitled RFC 1321 - "The MD5 Message Digest Algorithm"

Claim 30:	Yes _____	No <input checked="" type="checkbox"/>
Claim 31:	Yes _____	No <input checked="" type="checkbox"/>
Claim 33:	Yes _____	No <input checked="" type="checkbox"/>
Claim 41:	Yes _____	No <input checked="" type="checkbox"/>

### III. WILLFUL INFRINGEMENT

#### Burden of Proof - Clear and Convincing Evidence

If you answered YES to Questions 1,2, or 3, please answer the corresponding question below.

#### Akamai and MIT's '703 Patent

14. Did Digital Island willfully infringe the '703 patent?

Yes \_\_\_\_\_ No ☒



#6

Akamai's '030 Patent

15. Did Digital Island willfully infringe the '030 patent?

Yes \_\_\_\_\_

No ✓

Digital Island and Kinetech's '791 Patent

16. Did Akamai willfully infringe the '791 patent?

Yes \_\_\_\_\_

No ✓

12/21/01  
DATE

[Signature]  
FOREPERSON